

AMENDED IN ASSEMBLY MAY 28, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2754**

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**Introduced by Assembly Member John A. Perez**

February 19, 2010

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An act to amend ~~Section 65040 of the Government Code~~, Sections 61041, 65038, 65040, 65040.2, and 65040.6 of, and to add Sections 65028.3 and 65039.5 to, the Government Code, and to amend Sections 75121 and 75124 of the Public Resources Code, relating to land use and planning.

LEGISLATIVE COUNSEL'S DIGEST

AB 2754, as amended, John A. Perez. Land use and planning: Office of Planning and Research: ~~duties~~. *Planning and State Clearinghouse Unit.*

The

(1) *The Planning and Zoning Law provides that the Office of Planning and Research is the comprehensive state planning agency, requires the office to serve the Governor and his or her cabinet as staff for long-range planning and research, and sets forth the various duties of the office; including the duty that the office, in conjunction with the Planning Advisory and Assistance Council, evaluate plans and programs of state government, identify conflicts or omissions in those plans and programs, and recommend to the Governor and Legislature new actions to resolve those conflicts, advance statewide environmental goals, and ensure state policies and programs conform to adopted land use planning goals and programs. That law requires the Governor to appoint the Director of State Planning and Research, and the Director of State Planning and*

*Research to head the office and carry out and effect all purposes vested by law in the office.*

*This bill would establish the Planning and State Clearinghouse Unit within the Office of Planning and Research, and provide that the unit is under the direct control of the Director of the Planning and State Clearinghouse Unit. The bill would require the Director of the Planning and State Clearinghouse Unit to oversee the work of the unit, and report directly to the Director of State Planning and Research.*

*The bill would authorize the Director of State Planning and Research, in accordance with constitutional provisions governing civil service, to employ and fix the compensation of the Director of the Planning and State Clearinghouse Unit and those officers and employees that the Director of State Planning and Research deems necessary for the effective conduct of the work of the unit.*

*This bill would delete certain statutory duties of the office, and transfer specified statutory duties, powers, and responsibilities of the office and the Director of State Planning and Research to the unit and the Director of the Planning and State Clearinghouse Unit. The bill would require the Director of the Planning and State Clearinghouse Unit to perform all duties, exercise all powers, assume and discharge all responsibilities, and carry out and effect all purposes prescribed to either the office or the unit by specified provisions of the Planning and Zoning Law, and require the Director of State Planning and Research to be responsible for the fulfillment of those duties and responsibilities, and the exercise of those powers.*

*(2) The Planning and Zoning Law requires the office, in conjunction with the Planning Advisory and Assistance Council, to evaluate plans and programs of state government, identify conflicts or omissions in those plans and programs, and recommend to the Governor and Legislature new actions to resolve those conflicts, advance statewide environmental goals, and ensure state policies and programs conform to adopted land use planning goals and programs.*

*This bill would transfer the above-described statutory duty from the office to the unit, and additionally require the ~~office~~ unit to report to the Governor and the Legislature, no later than January 1, 2012, and by that date every two years thereafter, on its efforts to accomplish its ~~above-listed~~ duties in conjunction with the Planning Advisory and Assistance Council.*

*(3) The Planning and Zoning Law also requires each transportation planning agency to prepare and adopt a regional transportation plan,*

*including, among other things, a sustainable communities strategy prepared by each metropolitan planning organization, as specified.*

*This bill would require the unit to assist the State Air Resources Board in providing technical assistance to a local government in developing its sustainable communities strategy or alternative planning strategy.*

*(4) Existing law establishes the Strategic Growth Council in state government and requires the council to consist of specified state-government officials, including the Director of State Planning and Research.*

*This bill would require the council to be administered by the Office of Planning and Research, and any remaining funds out of the existing appropriation to support the council as of January 1, 2011, to be transferred to the office to pay the costs of administration of the council.*

*This bill would also require the unit to work with the council to assist state and local entities in the planning of sustainable communities and in meeting the goals of the California Global Warming Solutions Act of 2006.*

*(5) This bill would also make conforming changes to existing law.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 61041 of the Government Code is  
2     amended to read:  
3     61041. Notwithstanding paragraph (1) of subdivision (a) (b)  
4     of Section 65040, this section applies only to those districts that  
5     on December 31, 2005, had boards of directors that consisted of  
6     three members. Those districts shall continue to have boards of  
7     directors that consist of three members until the next general district  
8     election after January 1, 2006, after which date those districts shall  
9     have boards of directors that consist of five members. At that  
10    election, the voters shall fill the two vacancies on the board of  
11    directors. Those two members of the board of directors shall serve  
12    for the terms of office determined pursuant to Section 10506 of  
13    the Elections Code.  
14    SEC. 2. Section 65028.3 is added to the Government Code, to  
15    read:

1     65028.3. “Unit” as used in this chapter, means the Planning  
2     and State Clearing House Unit established pursuant to Section  
3     65039.5.

4     SEC. 3. Section 65038 of the Government Code is amended to  
5     read:

6     65038. For the purpose of administering this chapter, the  
7     Governor shall appoint the Director of State Planning and Research,  
8     who shall ~~perform~~ be responsible for the performance of all duties,  
9     the exercise of all powers, ~~assume~~ the assumption and discharge  
10    of all responsibilities, and ~~carry out and effect~~ for carrying out and  
11    effecting all purposes vested by law in the office, including  
12    contracting for professional or consultant services in connection  
13    with the work of the office.

14    SEC. 4. Section 65039.5 is added to the Government Code, to  
15    read:

16    65039.5. (a) The Planning and State Clearinghouse Unit is  
17    hereby established in state government in the Office of Planning  
18    and Research. The unit shall be under the direct control of the  
19    Director of the Planning and State Clearinghouse Unit, who shall  
20    oversee all work of the unit and report directly to the Director of  
21    State Planning and Research.

22    (b) The Director of State Planning and Research may employ  
23    and fix the compensation, in accordance with Article VII of the  
24    California Constitution, of the Director of the Planning and State  
25    Clearinghouse Unit and those officers and employees that the  
26    Director of State Planning and Research deems necessary for the  
27    effective conduct of the work of the Planning and State  
28    Clearinghouse Unit.

29    (c) Notwithstanding any contrary law, the Director of the  
30    Planning and State Clearinghouse Unit shall perform all duties,  
31    exercise all powers, assume and discharge all responsibilities,  
32    and carry out and effect all purposes prescribed by Sections 65040  
33    to 65053.7, inclusive, to either the office or the unit.

34    SECTION 4.

35    SEC. 5. Section 65040 of the Government Code is amended  
36    to read:

37    65040. (a) The Office of Planning and Research shall serve  
38    the Governor and his or her Cabinet as staff for long-range planning  
39    and research, and constitute the comprehensive state planning  
40    agency. ~~In this capacity the office shall:~~

1     ***(b) In order to discharge the duties of the office prescribed by***  
2     ***subdivision (a), the Planning and State Clearinghouse Unit within***  
3     ***the office shall do all of the following:***

4     ~~(a)~~

5     ***(1) Assisted by the Planning Advisory and Assistance Council***  
6     ***established pursuant to subdivision (a) of Section 65040.6, engage***  
7     ***in the formulation, evaluation and updating of long-range goals***  
8     ***and policies for land use, population growth and distribution, urban***  
9     ***expansion, development, open space, resource preservation and***  
10    ***utilization, air and water quality, and other factors which shape***  
11    ***statewide development patterns and significantly influence the***  
12    ***quality of the state's environment.***

13    ~~(b)~~

14    ***(2) Assist in the orderly preparation by appropriate state***  
15    ***departments and agencies of intermediate- and short-range***  
16    ***functional plans to guide programs of transportation, water***  
17    ***management, open space, recreation and other functions which***  
18    ***relate to the protection and enhancement of the state's environment.***

19    ~~(c) (1) In conjunction with the council,~~

20    ***(3) By January 1, 2012, and annually thereafter, review the***  
21    ***functional plans of each state department and agency to ensure***  
22    ***consistency with the state planning priorities specified in Section***  
23    ***65041.1. If a plan is determined to be inconsistent with the***  
24    ***priorities, the unit shall make recommendations to the department***  
25    ***or agency and the Legislature on what changes need to be made***  
26    ***in order to make the plan consistent.***

27    ***(4) (A) Biannually evaluate plans and programs of departments***  
28    ***and agencies of state government, identify conflicts or omissions,***  
29    ***and recommend to the Governor and the Legislature new state***  
30    ***policies, programs and actions, or amendments of existing***  
31    ***programs, as required, to resolve conflicts, advance statewide***  
32    ***environmental goals to respond to emerging environmental***  
33    ***problems and opportunities, and to ensure that all state policies***  
34    ***and programs conform to the adopted land use planning goals and***  
35    ***programs.***

36    ~~(2)~~

37    ***(B) Report to the Governor and the Legislature on its efforts to***  
38    ***accomplish the duties described in paragraph (1), no later than one***  
39    ***year after the operative date of the act that added this paragraph***  
40    ***to this section, and by that date every two years thereafter.***

1     ~~(d)~~

2     (5) Assist the Department of Finance in preparing, as part of  
3 the annual state budget, an integrated program of priority actions  
4 to implement state functional plans and to achieve statewide  
5 environmental goals and objectives and take other actions to assure  
6 that the program budget, submitted annually to the Legislature,  
7 contains information reporting the achievement of state goals and  
8 objectives by departments and agencies of state government.

9     ~~(e) Coordinate the development of policies and criteria to ensure~~  
10 ~~the federal grants-in-aid administered or directly expended by state~~  
11 ~~government advance statewide environmental goals and objectives.~~

12     ~~(f) Coordinate the development and operation of a statewide~~  
13 ~~environmental monitoring system to assess the implications of~~  
14 ~~present growth and development trends on the environment and~~  
15 ~~to identify at an early time, potential threats to public health, natural~~  
16 ~~resources and environmental quality.~~

17     ~~(g)~~

18     (6) Coordinate, in conjunction with appropriate state, regional,  
19 and local agencies, the development of objectives, criteria and  
20 procedures for the orderly evaluation and report of the impact of  
21 public and private actions on the environmental quality of the state  
22 and as a guide to the preparation of environmental impact reports  
23 required of state and local agencies in Sections 21102 and 21150  
24 of the Public Resources Code.

25     ~~(h)~~

26     (7) Coordinate research activities of state government directed  
27 to the growth and development of the state and the preservation  
28 of environmental quality, render advice to the Governor, his or  
29 her Cabinet, to the Legislature, and any agency or department of  
30 state government, and provide information to, and cooperate with,  
31 the Legislature or any of its committees or officers.

32     ~~(i)~~

33     (8) Coordinate the technical assistance provided by state  
34 departments and agencies in regional and local planning to assure  
35 that such plans are consistent with statewide environmental goals  
36 and objectives *and the state planning priorities specified in Section*  
37 *65041.1.*

38     ~~(j)~~

39     (9) Accept and allocate or expend grants and gifts from any  
40 source, public or private, for the purpose of state planning and

1 undertake other planning and coordinating activities as will  
2 implement the policy and intent of the Legislature as set forth  
3 herein.

4 ~~(k) Develop~~

5 *(10) By January 1, 2012, and every five years thereafter, develop*  
6 *long-range policies to assist the state and local agencies in meeting*  
7 *the problems presented by the growth and development of urban*  
8 *areas and defining the complementary roles of the state, cities,*  
9 *counties, school districts, and special districts with respect to such*  
10 *growth.*

11 ~~(l)~~

12 *(11) Encourage the formation and proper functioning of, and*  
13 *provide planning assistance to, city, county, district, and regional*  
14 *planning agencies.*

15 ~~(m)~~

16 *(12) Assist local government in land use planning.*

17 *(13) Assist the State Air Resources Board in providing technical*  
18 *assistance to a local government developing its sustainable*  
19 *communities strategy or alternative planning strategy pursuant to*  
20 *Section 65080.*

21 *(14) Work with the Strategic Growth Council to assist state and*  
22 *local entities in the planning of sustainable communities and in*  
23 *meeting the goals of the California Global Warming Solutions Act*  
24 *of 2006 (Division 25.5 (commencing with Section 38500) of the*  
25 *Health and Safety Code), including the provision of technical*  
26 *assistance to local governments eligible for grants and loans to*  
27 *support the planning and development of sustainable communities,*  
28 *pursuant to Section 75127, 75128, or 75129 of the Public*  
29 *Resources Code.*

30 *SEC. 6. Section 65040.2 of the Government Code is amended*  
31 *to read:*

32 *65040.2. (a) In connection with its responsibilities under*  
33 *paragraph (11) of subdivision (b) of Section 65040, the office*  
34 *unit shall develop and adopt guidelines for the preparation of and*  
35 *the content of the mandatory elements required in city and county*  
36 *general plans by Article 5 (commencing with Section 65300) of*  
37 *Chapter 3. For purposes of this section, the guidelines prepared*  
38 *pursuant to Section 50459 of the Health and Safety Code shall be*  
39 *the guidelines for the housing element required by Section 65302.*

40 *In the event that additional elements are hereafter required in city*

1 and county general plans by Article 5 (commencing with Section  
2 65300) of Chapter 3, the ~~office~~ *unit* shall adopt guidelines for those  
3 elements within six months of the effective date of the legislation  
4 requiring those additional elements.

5 (b) The ~~office~~ *unit* may request from each state department and  
6 agency, as it deems appropriate, and the department or agency  
7 shall provide, technical assistance in readopting, amending, or  
8 repealing the guidelines.

9 (c) The guidelines shall be advisory to each city and county in  
10 order to provide assistance in preparing and maintaining their  
11 respective general plans.

12 (d) The guidelines shall contain the guidelines for addressing  
13 environmental justice matters developed pursuant to Section  
14 65040.12.

15 (e) The guidelines shall contain advice including  
16 recommendations for best practices to allow for collaborative land  
17 use planning of adjacent civilian and military lands and facilities.  
18 The guidelines shall encourage enhanced land use compatibility  
19 between civilian lands and any adjacent or nearby military facilities  
20 through the examination of potential impacts upon one another.

21 (f) The guidelines shall contain advice for addressing the effects  
22 of civilian development on military readiness activities carried out  
23 on all of the following:

24 (1) Military installations.

25 (2) Military operating areas.

26 (3) Military training areas.

27 (4) Military training routes.

28 (5) Military airspace.

29 (6) Other territory adjacent to those installations and areas.

30 (g) By March 1, 2005, the guidelines shall contain advice,  
31 developed in consultation with the Native American Heritage  
32 Commission, for consulting with California Native American tribes  
33 for all of the following:

34 (1) The preservation of, or the mitigation of impacts to, places,  
35 features, and objects described in Sections 5097.9 and 5097.993  
36 of the Public Resources Code.

37 (2) Procedures for identifying through the Native American  
38 Heritage Commission the appropriate California Native American  
39 tribes.



1 (3) Procedures for continuing to protect the confidentiality of  
2 information concerning the specific identity, location, character,  
3 and use of those places, features, and objects.

4 (4) Procedures to facilitate voluntary landowner participation  
5 to preserve and protect the specific identity, location, character,  
6 and use of those places, features, and objects.

7 (h) Commencing January 1, 2009, but no later than January 1,  
8 2014, upon the next revision of the guidelines pursuant to  
9 subdivision (i), the ~~office~~ *unit* shall prepare or amend guidelines  
10 for a legislative body to accommodate the safe and convenient  
11 travel of users of streets, roads, and highways in a manner that is  
12 suitable to the rural, suburban, or urban context of the general plan,  
13 pursuant to subdivision (b) of Section 65302.

14 (1) In developing guidelines, the ~~office~~ *unit* shall consider how  
15 appropriate accommodation varies depending on its transportation  
16 and land use context, including urban, suburban, or rural  
17 environments.

18 (2) The ~~office~~ *unit* may consult with leading transportation  
19 experts including, but not limited to, bicycle transportation  
20 planners, pedestrian planners, public transportation planners, local  
21 air quality management districts, and disability and senior mobility  
22 planners.

23 (i) The ~~office~~ *unit* shall provide for regular review and revision  
24 of the guidelines established pursuant to this section.

25 *SEC. 7. Section 65040.6 of the Government Code is amended*  
26 *to read:*

27 65040.6. (a) The Planning Advisory and Assistance Council  
28 is hereby created within the office, the membership of which shall  
29 be as follows: three city representatives; three county  
30 representatives; one representative of each district, provided that  
31 at least two of the district representatives are representatives of  
32 metropolitan areawide planning organizations and that at least one  
33 of the district representatives is a representative of a  
34 nonmetropolitan planning organization; and one representative of  
35 Indian tribes and bands which have reservations or rancherias  
36 within California. The city and county representatives appointed  
37 pursuant to this subdivision shall be selected by the director from  
38 nominees submitted by the League of California Cities and by the  
39 California State Association of Counties. Representatives of  
40 areawide planning organizations appointed pursuant to this

subdivision shall be selected by the director from nominees submitted by the several areawide planning organizations within the state. Other district representatives shall be appointed by the director. The representative of Indian tribes and bands shall be a member of one tribe or band, and shall be selected by the director.

Appointment to the advisory council shall be for a term of two years, provided that the members of the first council shall classify themselves by lot so that one-half shall serve an initial term of one year and one-half shall serve an initial term of two years. Vacancies shall be filled in the same manner provided for the original appointment.

(b) The council shall provide such advice as may be necessary to assist the ~~office~~ *unit* in discharging the requirements of Sections 65040 to 65040.4, inclusive. In particular, the council shall:

(1) Assist the ~~office~~ *unit* in the preparation of the state long-range goals and policies, in the manner specified in *paragraph (1) of subdivision (a)* ~~(a)~~ *(b)* of Section 65040.

(2) Evaluate the planning functions of the various state agencies involved in planning, in the manner specified in *paragraph (4) of subdivision (e)* ~~(e)~~ *(b)* of Section 65040.

(3) Make appropriate decisions and provide ~~such~~ advice and assistance as may be required by federal statute or regulation in connection with any federal program administered by the office.

(c) The council shall meet on call of the director of the office, who shall convene at least two council meetings during each year.

(d) Council members shall serve without compensation, but they may be reimbursed for actual expenses incurred in connection with their duties.

*SEC. 8. Section 75121 of the Public Resources Code is amended to read:*

75121. (a) The Strategic Growth Council is hereby established in state government and it shall consist of the Director of State Planning and Research, the Secretary of the *Natural Resources Agency*, the Secretary for Environmental Protection, the Secretary of Business, Transportation and Housing, the Secretary of California Health and Human Services, and one member of the public to be appointed by the Governor. The public member shall have a background in land use planning, local government, resource protection and management, or community development or revitalization.

(b) Staff for the council shall be reflective of the council's membership.

(c) *The council shall be administered by the Office of Planning and Research.*

SEC. 9. *Section 75124 of the Public Resources Code is amended to read:*

75124. Of the funds made available pursuant to subdivisions (a) and (c) of Section 75065, the sum of five hundred thousand dollars (\$500,000) is hereby appropriated to the *Natural Resources Agency* to be used in support of the council and its activities in accordance with this chapter. *Any remaining funds from this appropriation as of January 1, 2011, shall be transferred to the Office of Planning and Research for the administration of the council.*

CORRECTIONS:

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